

REMARKS

I. Status of the Claims

Claims 1, 3-9, and 11-13 were pending at the time of the Office Action. Claims 1 and 13 have been amended. Support for these amendments is found throughout the specification and the original claims, for example in the specification at page 6, lines 1-3 and page 13, lines 6-15. No claims have been cancelled or added. Therefore, claims 1, 3-7, 9, and 11-13 remain pending.

All elements recited in the pending claims were presented in claims previously before the Examiner. As such, a new prior art search is not necessitated by the present claim amendments.

II. The Pending Claims Are Patentable Over the Cited References

Claims 1, 3-9, and 11-13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (*J. Pathol.*, 195(1):53-65, 2001; IDS file 2/27/04, Entry C13), in view of Shaffer (*Annual Review of Psychology*, Vol. 46, p. 561-584, 1995), in view of Cole *et al.* (*Prenatal Diagnosis*, Vol. 19, p. 351359, 1999) and in view of deGroot *et al.* (*Analytica Chimica Acta*, Vol. 446, p. 71-83, 2001). Claims 1 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over the above-listed references, and further in view of Jensen *et al.* (*Bioinformatics*, Vol. 16, No. 4, p. 326-333, 2000). Applicants respectfully traverse and submit that the pending claims are patentably distinct over the cited combinations.

The Advisory Action maintained the previous rejection because the claims recited that that the “associated T-test comprises a test” that could be interpreted to be “any test.” Advisory Action at 2. The Office stated that “the teaching in Wu *et al.* of an F-test for comparing variances between groups meets the limitation of the claims.” *Id.* at 2. Applicants respectfully disagree. It is apparent to one of ordinary skill in the art that a T-test comprises a T-test. Nevertheless, Applicants appreciate the Office’s recognition that Wu does not teach a T-test.

In the interest of advancing prosecution, claim 1 is amended to recite that “the associative T-test comprises a ***T-test*** in which a plurality of replicated residuals for each gene of the plurality of the expression profiles of the experimental group are compared with an entire set of residuals from the plurality of expression profiles of the control group” (emphasis added). Claim 13 has been similarly amended. Pending dependent claims 3-7, 9, and 11-12 each depend from claim 1, and therefore also recite that the associative T-test comprises a T-test.

The Advisory Action further stated that the “claims do not recite a limitation in which a T-test is performed on residuals. Rather, the claim recites ‘a test’ in which residuals are compared.” Advisory Action at 2. Applicants respectfully submit that the pending claims recite that “the associative T-test comprises a ***T-test*** in which a plurality of replicated residuals for each gene of the plurality of the expression profiles of the experimental group are compared with an entire set of residuals from the plurality of expression profiles of the control group.” Claims 1 and 13 (emphasis added). The claims now explicitly recite that the associative T-test comprises a T-test and, therefore, cannot be interpreted to be “any test,” as stated in the Advisory Action.

None of the cited references teach or suggest the application of a ***T-test*** to ***residuals***. As noted in the Office Action dated January 23, 2009 at page 5 and the Advisory Action dated March 23, 2009 at page 2, Wu does not teach a T-test. See Wu, *J. Pathol.*, 195(1):53-65, 2001. Thus, no combination of the cited references appears to disclose or even suggest every element of the claims. Accordingly, pending claims 1, 3-7, 9, and 11-13 are patentably distinct from the cited combination, and withdrawal of the rejection is respectfully requested.

III. Conclusion

Applicants believe that these remarks fully respond to all outstanding matters for this application, and respectfully submit that all claims are in condition for allowance. Should the Examiner have any questions regarding this submission, a telephone call to the undersigned agent at 512-536-3083 is invited.

Respectfully submitted,



Eagle H. Robinson
Reg. No. 61,361
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
Telephone: (512) 474-5201
Facsimile: (512) 536-4598

Date: July 23, 2009